U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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Committee Approves Grassley Bill to Protect Employees' Pensions

WASHINGTON -- The Committee on Finance today unanimously passed legislation from Sen. Chuck Grassley, chairman of the Committee on Finance, to better protect employees' pension plans from corporate malfeasance. Also included is Grassley's proposal to make sure employees' pensions are calculated reliably.

"Last year the headlines were all about Enron and WorldCom raiding their employees' retirement funds," Grassley said. "The headlines have died down, but workers' pensions are still too vulnerable to executive greed. Workers need these protections. They need insulation from any bad corporate actors."

The committee passed Grassley's legislation, the *National Employee Savings and Trust Equity Guarantee (NESTEG) Act*, which tightens protections for retirement plan participants in the future in light of the collapse of the Enron Corp., WorldCom, Global Crossing and other similarly situated companies. The committee passed the bill last year, but the then-Democratic Senate leadership never allowed the full Senate to vote on the legislation.

"Millions of Americans have hundreds of billions of dollars invested in employer-sponsored retirement plans," Grassley said. "My goal with this legislation is to make sure corporate missteps, including fiduciary mismanagement, aren't allowed to fester, especially when it comes to protecting workers' pensions."

The NESTEG Act includes new diversification rights for company stock in plans; new disclosure requirements for transaction suspension periods, or black-outs; and new disclosure through periodic benefit statements and retirement savings information. A detailed summary follows.

Grassley's legislation also includes a series of reforms to rein in executives' ability to defer payment of tax on their compensation.

Grassley's legislation also includes his proposal to replace the 30-year Treasury bond rate formerly used in calculating pension plan contributions. Grassley said the proposal had a solid core of bipartisan support on the committee and was the product of consultation with Republican and

Democratic members.

"This proposal provides guidance in the short term that's familiar to the defined benefit plan community," Grassley said. "Over the long term, the proposal phases in an interest rate that will accurately reflect the underlying defined benefit plan's liability to its employees. The long-term proposal will yield a transparent and meaningful interest rate. This proposal gives employers a fair amount of time to adjust to an eventual yield curve. It's important to enact this policy. Workers need reliable funding of their pensions, and employers need a reliable basis on which to calculate pension payments."

Grassley said his pension protection initiative is a natural outgrowth of his work over the last five years to make it easier for more working Americans to save for retirement through private pension plans. The President's 10-year tax relief bill enacted in June 2001 was shepherded through the Senate by Grassley and includes bipartisan measures he designed to expand coverage for employees of small businesses, increase participation in employer-sponsored retirement savings plans, and improve opportunities for workers to catch up and prepare for retirement.

"It's been obvious for a long time that pension savings is key to a better quality of life in retirement," Grassley said. "Now it's also plain to see that workers need stronger protections of the hard-earned dollars they invest in pension plans. Another important point is Congress has approved generous tax incentives to employers to start up and keep retirement plans. If employers abuse the rules, it's our job to fix the rules. And when companies accept tax breaks to offer retirement plans, they're obligated to deliver."

Grassley said he hopes for full Senate consideration of the pension legislation as soon as possible.

National Employee Savings and Trust Equity Guarantee (NESTEG) Act

1. New Diversification Rights Regarding Company Stock in Plans.

Current law. Plan sponsors can restrict matching contributions made in employer stock for a specified period of time, such as until the worker reaches age 55 and has 10 years of service.

NESTEG. Matching contributions in the 401(k) plan of a vested worker (meaning the worker has been with the company for three years) belong entirely to the worker. Restrictions on diversification cannot be placed on those shares of stock. No money contributed by the employees can be required to be invested in employer stock.

The rule will not apply for:

Closely-held companies. This rule does not apply to closely-held companies. These companies will continue to be subjected to current law. The stock in a non-publicly traded company is frequently too difficult to value and expensive for closely-held companies to redeem. In addition, the cash obligation can make aspects of the business, including securing lending, more difficult.

Stand-alone employee stock ownership plans. The rule does not apply to any employee stock ownership plan consisting solely of so-called non-elective contributions (no matching contributions and no employee money) and which is a separate plan. Non-elective contributions are contributions that the employer makes voluntarily and which the employee could not choose to receive in cash.

2. New Disclosure for Transaction Suspension Periods (Black-outs).

Current law. Fiduciaries are subject to the Employee Retirement Income Security Act's (ERISA's) "Prudent Man Standard of Care" when operating their plan. Black-outs must be conducted in a manner that is solely in the best interest of the participants. A black-out occurs when investment rights are suspended or reduced for two or more business days.

NESTEG. 30-day advance notice of black-outs. Written, or otherwise electronically transmitted, notice 30 days in advance of a black-out will be required.

Exceptions. Exceptions for emergencies, mergers and acquisitions, other black-out periods such as those specified in securities laws, or specified in regulations prescribed by the secretary of the Treasury.

3. New Disclosure Through Periodic Benefit Statements and Retirement Savings Information.

Current law. ERISA requires plan administrators to furnish a benefit statement upon request, though no more often than once annually. Many plans provide an annual benefit statement now.

NESTEG. Defined contribution plans generally. All individual account plans would be required to provide an annual benefit statement to workers, electronically or otherwise.

Defined contribution plans that allow participant direction of investments. Plans that allow participants to direct investments would be required to provide quarterly benefit statements. These statements could be provided electronically. Statements would be required to include information regarding how much money, if any, is invested in company stock, any restrictions on the disposition of the stock and information on the importance to long-term retirement security of having a well-balanced and diversified portfolio (including a discussion of the risk of holding substantial portions of one's portfolio in any one entity such as employer securities).

Defined benefit plans. Defined benefit plans would be required to provide an estimated benefit statement to each vested participant once every three years. Participants could still request a statement annually.